

**INTERPRETATIVE GUIDE  
CHANGES  
EFFECTIVE 6/1/2013**

**UPDATE #1: Field Trips – p. 28 and p. 33**

**■ 470 IAC 3-1.1-40 Transportation and activities away from the child care home**

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 40. (a) Caregiver shall obtain written parental permission before taking a child away from the child care home for field trips or any other activities.

(b) Children may be transported by an individual eighteen (18) years of age or older having a valid driver's license and driving a properly licensed and insured vehicle in safe condition.

(c) Children shall be transported in safety restraint equipment that is in compliance with state laws.

(d) Direct child care providers shall not leave children unattended in a vehicle.

◆ Intent:

To protect children who are transported while in the care of the home and to ensure parents consent to their child leaving the home's premises.

○ Assessment Method:

Observe or interview the caregiver to determine if children are transported or leave the premises. If they are transported or otherwise leave the premises, review the children's files to observe written permission from parents. Observe the driver's licenses and insurance proof for all individuals that transport children. If possible, observe the vehicle(s) used to transport children; observe for seat belts and car seats. A field trip is when a child or group of children is taken outside of the child care property lines.

▲ Threshold of Compliance:

A finding that a child is left unattended in a vehicle is made by direct observation or as the result of a complaint investigation.

**■ 470 IAC 3-1.1-45 General environment**

Authority: IC 12-13-5-3

Affected: IC 12-17.2

■ (d) The licensee shall provide a protected outdoor play area that is safely enclosed by either a fence or natural boundaries for children in care.

◆ Intent:

To preventing the children from access to streets and other hazards.

○ Assessment Method:

Observe the outside play area. Fencing or another form of barrier such as a hedge or other plants that restrains the children, and that they cannot climb, must be provided around the play area. Fences should be a minimum of four (4) feet high. When children are outside playing or doing activities, they shall remain in the fenced in play area for their protection. Children are not allowed to play in an area of the yard, on the porch, on the sidewalk, driveway, etc that is not fenced in.

## **UPDATE #2: Fire Prevention – p. 35**

### **■ 470 IAC 3-1.1-46 Fire prevention**

Authority: IC 12-13-5-3

Affected: IC 12-17.2

- (c) Each room of the home where child care services are provided is required to have at least two (2) means of escape (this may include one (1) window and one (1) door).

#### **◆ Intent:**

To protect the children in care by ensuring that each room used for child care has two means of escape in case fire blocks one of the escape routes.

#### **○ Assessment Method:**

Observe all of the child care rooms for two means of escape. If one of the means of escape is a window, ensure that the window opens wide enough for an adult to pass through it. The window may not be covered with plastic, bars, or any other item that would block passage. This rule does not apply to the bathroom which may not have a window. It is assumed that the children's time in bathroom will be limited.

## **UPDATE #3: Definition of a Class I Child Care Home – p. 68**

### **IC 12-7-2-33.7**

#### **Class I child care home**

Sec. 33.7. (a) As used in this chapter, "class I child care home" means a child care home that serves any combination of full-time and part-time children, not to exceed at any one (1) time twelve (12) children plus three (3) children during the school year only who are enrolled in at least full-day kindergarten. Except as provided in IC 12-17.2-5-6.3(b), the addition of three (3) school age children may not occur during a break in the school year that exceeds four (4) weeks.

(b) A child:

(1) for whom a provider of care in the child care home is a parent, stepparent, guardian, custodian, or other relative and who is at least seven (7) years of age; or

(2) who is at least fourteen (14) years of age and does not require child care;  
shall not be counted in determining whether the child care home is within the limit set forth in subsection (a).

*As added by P.L.136-1993, SEC.3. Amended by P.L.106-1996, SEC.1; P.L.247-2001, SEC.5; P.L.124-2007, SEC.2; P.L.197-2011, SEC.38.*

## **UPDATE #4: Smoking – p. 49**

### **■ IC 12-17.2-5-3.5**

#### **Drug testing**

- (b) A child care home shall maintain a written policy specifying the following:

- (1) That the:
  - (A) use of:
    - (i) tobacco;
    - (ii) alcohol; or
    - (iii) a potentially toxic substance in a manner other than the substance's intended purpose; and
  - (B) use or possession of an illegal substance; is prohibited in the child care home when child care is being provided
- (2) That drug testing of individuals who serve as caregivers at the child care home will be:
  - (A) performed based on a protocol established or approved by the division; and
  - (B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).
- (c) If:
  - (1) the drug testing results obtained under subsection (a) or (b) indicate the presence of a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), or (b)(1)(B); or
  - (2) an individual refuses to submit to a drug test; the child care home shall immediately suspend or terminate the individual's employment or volunteer service.
- (d) A child care home that suspends an individual described in subsection (c) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug testing results that are negative for a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), or (b)(1)(B).
- (e) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.
- (f) A child care home that does not comply with this section is subject to:
  - (1) denial of an application for a license; or
  - (2) suspension or revocation of a license issued; under this chapter.

♦ Intent:

To protect children from harm by requiring licensees to develop and implement a written policy regarding the use of tobacco, alcohol, potentially toxic substances, and illegal substances. The written policy is developed under the guidance of the division and includes termination of employment or volunteer service of individuals refusing drug testing or testing positive. Employee and volunteers' right to confidentiality and due process are required.

○ Assessment Method:

Review the written policy to determine if it follows the division protocol and includes all required elements. Also check for the use of tobacco and illegal drugs in the home by observation and smell.

In July 2012, a law came into effect that banned smoking in a public place as well as a place of employment. Because child care facilities (homes, centers, and ministries) are intended for use by individuals younger than 18, even if it is your own residence, smoking is banned within 8 feet of the building at all times. There shall never be ashtrays or other smoking paraphernalia inside the facility or within 8 feet of any public entrance. At least two (2) signs must be posted inside the residence or facility that states "Smoking is Prohibited" or other similar language. Also, signs that read "State Law Prohibits Smoking within 8 feet of this Entrance" or "This is a tobacco free campus" or some other similar language must be posted at all public entrances (anywhere that anyone who is not an employee can enter and exit the facility).

## Update #5: Supervision – p. 22

### 470 IAC 3-1.1-36.5(b)

#### Child to staff ratio

- (b) Children shall not be left unattended and shall be supervised at all times.

#### ♦ Intent:

To ensure the safety and well-being of children at all times.

#### ○ Assessment Method:

Observe supervision practice used in the home and the outside play area. Children must be in the sight or hearing of the child care staff at all times.

Children at bus stops must be observed until they get on the bus and until they get to the child care home from the bus stop

#### ▲ Threshold of Compliance:

The following provides further clarification:

- Sound monitors alone are not acceptable a means of supervision.
- Children must be on the same floor of the home as the caregiver(s).
- During mealtimes, children shall remain in the caregiver's line of sight.
- With written parental permission, a child in grade one or older may participate in activities outside the direct supervision of a caregiver if the child is on the premise and the caregiver physically checks on the child every 15 minutes.
- If a child is able to toilet independently, she or he may do so without caregiver supervision.
- Children may sleep outside of the caregiver's direct line of vision providing that the doors to the rooms where the children are sleeping remain open and the caregiver visually monitors and checks the children's breathing periodically; children younger than 15 months must be checked every 15 minutes. NOTE: "Open" means the door is completely open not ajar, not ½ way open, etc. Provider must be able to see the rise and fall of the child's chest.
- The licensee's own children may sleep in their own bedrooms outside the observation of the caregiver.
- Regardless of the age of the child, a child's head or face shall never be covered by a blanket or any other covering. A child cannot be supervised adequately if you are unable to see their face and head.
- Provider may stand at the door of the home and watch children until they get on the bus and watch them walking home from the bus drop off. Children must be observed at all times. The other children in the home must be supervised according to the above criteria.
- Providers may not sleep during the time they are counted in child/staff ratios.

## Update #6: Blankets/Covering – p. 30

### 470 IAC 3-1.1-43

#### Sleep and Rest

Sec. 43. (a) A separate bed, cot, mat, or sleeping bag shall be provided for each child.

(b) A period for sleep, rest, or quiet time shall be provided during the day for children under five (5) years of age consistent with the needs of the child and in accordance with the wishes of the parent.

#### ♦ Intent:

To ensure that children nap or rest during the day on appropriate equipment. Children younger than five years generally require a nap during the day. The napping equipment, a crib, mat, cot or sleeping bag, should be assigned to only one child or sanitized daily to prevent the spread of illness. It should also be large enough for the child's entire body to rest on. Napping schedules shall be discussed regularly with parents. The caregiver and the parents shall agree on a napping schedule.

#### ○ Assessment Method:

Observe the children's napping equipment for appropriateness and cleanliness. Interview the caregiver to determine napping and rest schedule, and how parents' wishes are accommodated.

Regardless of the age of the child, a child's head or face shall never be covered by a blanket or any other covering.

## Update #7: Infant cribs – cribs - p. 43

### 470 IAC 3-1.2-2 "Full-sized crib" defined

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 2. As used in this rule, "full-sized crib" means a child's bed which has an interior dimension greater than fifty-two and three-eighths ( $52 \frac{3}{8}$ ) inches plus or minus five-eighths ( $\frac{5}{8}$ ) inch in length, and twenty-eight (28) inches plus or minus five-eighths ( $\frac{5}{8}$ ) inch in width. With the mattress support in its lowest position and the crib side in its highest position, the vertical distance from the upper surface of the mattress support to the upper surface of the crib side or end panel shall not be less than twenty-six (26) inches.

#### ♦ Intent:

To define the term "full-sized crib" for use in this rule.

#### ○ Assessment Method:

When there is question whether a particular crib is full-sized, it shall be measured using a tape measure.

New crib standards were adopted by the Consumer Product Safety Commission effective 6/28/2011. Any crib manufactured prior to this date shall not be used. These guidelines apply to all types of cribs – full size, non full size, wooden, and metal. Non-compliant cribs may not be resold or donated. They must be disassembled prior to discarding.

### **470 IAC 3-1.2-3 “Portacrib” defined**

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 3. As used in this rule, “portacrib” means a child's portable bed which has an interior dimension smaller than forty-nine and three-fourths (49 3/4) inches plus or minus five-eighths (5/8) inch in length but not less than thirty-six (36) inches in length, and twenty-five and three-eighths (25 3/8) inches plus or minus five-eighths (5/8) inch in width but not less than twenty-four (24) inches in width. With the mattress support in its lowest position, the vertical distance from the upper surface of the mattress support to the upper surface of the crib side or end panel shall not be less than twenty-two (22) inches.

♦ Intent: To define the term “portacrib” for use in this rule.

#### Assessment Method:

When there is a question whether a particular crib is a portacrib, it shall be measured measuring a tape measure.

New crib standards were adopted by the Consumer Product Safety Commission effective 6/28/2011. Any crib manufactured prior to this date shall not be used. These guidelines apply to all types of cribs – full size, non full size, wooden, and metal. Non-compliant cribs may not be resold or donated. They must be disassembled prior to discarding.

### **Update #8 Health – Handwashing – p. 30**

#### **■ 470 IAC 3-1.1-44 Health**

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 44.

■ (c) Child care providers shall see that children's hands are washed at a sink with soap and warm running water before meals and snacks and after toilet use. Direct child care providers shall not permit children to use a common washcloth or towel.

♦ Intent:

To reduce the spread of illness. Hand washing is the most effective way to reduce the spread of illness in child care. Use of a shared towel or washcloth reduces the effectiveness of hand washing by providing the opportunity to share germs on the towel or washcloth.

○ Assessment Method:

Observe the bathroom and kitchen for soap and individual towels or paper towels. Running water, soap, and towels shall be close enough for the children to reach easily and without adult assistance. Check to determine if warm water is available at all sinks. Observe the children and caregiver to determine if hand washing is done routinely.

▲ Threshold of Compliance:

Electric hand dryers may be used in lieu of towels. Hand sanitizers may not be used in lieu of washing hands with soap and running water.

## Update #9 – Naps – Infant Sleeping – p. 45

### 470 IAC 3-1.2-5 Naps

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 5. (a) Licensee shall provide a separate crib, portacrib, or playpen in which each infant or toddler can sleep. Each crib, portacrib, or playpen shall be equipped with a firm-fitting mattress or pad made of waterproof materials. A parent or legal guardian may provide or approve the use of a bassinet for an infant and is responsible along with the caregiver to monitor its use closely. (Manufacturers of bassinets indicate that a bassinet should no longer be used once an infant begins moving and turning unassisted.) (b) The licensee may use washable cots, sleeping bags, or mats for toddlers over twenty-four (24) months of age.

#### ♦ Intent:

To protect children while they are sleeping by ensuring that the sleeping equipment is safe for children based on their development stage.

#### ○ Assessment Method:

Observe the children's sleeping equipment to determine if each child younger than 24 months has a crib, portacrib, playpen, or bassinet. If a bassinet is used, determine if the parent has either provided or consented to the use of the bassinet. For the child older than 24 months and not using a crib, portacrib, or playpen for napping, determine if a cot, mat or sleeping bags is available for his or her use. If a child that is less than 24 months old would be better on a cot or mat due to climbing out of the crib or too large for the crib, the provider may apply for a variance with written parental permission. Stackable cribs are not allowed. Children less than 12 months of age shall never have any soft bedding such as pillows, quilts, comforters and sheepskins in the crib, portacrib, playpen, bassinet, or pack n play. There shall not be any toys, stuffed animals, crib bumpers, positioning devices, or extra bedding in the crib or other approved sleeping surface. Children less than 12 months of age must always be placed on their back to sleep. A child less than 12 months that falls asleep in other locations, such as a swing, car seat, or bouncy seat, must be immediately moved to a safe sleeping surface.

If an approved safe sleep surface is used for more than one child, the surface must be sanitized between uses and a clean sheet put on the mattress.

## Update #10 – Diaper Changing – p. 45 and 46

### 470 IAC 3-1.2-6 Diaper changing and toilet training

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 6. (a) The licensee shall provide an area for diaper changing with a washable surface on which the infant or toddler may be placed. The diaper changing surface must have waterproof material between the child and the surface of the changing area. This material shall be changed after each use. The diaper changing area shall be sanitized daily and when soiled.

(b) Licensee shall supply a covered container for wet or soiled diapers.

(c) Direct child care providers changing diapers shall wash their hands with soap and running water after each diaper change.

◆ Intent:

To protect the children from diseases particularly those diseases with a fecal-oral transmission.

○ Assessment Method:

Observe caregiver changing a child's diaper to determine that:

- There is an area designated for changing diapers
- There is a washable and sanitizable surface on which the child is placed and it is fully intact
- There is a waterproof material placed between the child and the diaper changing surface. The paper must be equal to the length of the child from neck to feet.
- That this material is changed after each use
- That the diaper changing surface is sanitized daily and when soiled with an appropriate sanitizing solution
- That the caregiver washes his/her hands with soap and running water after each diaper change. Hands shall be washed prior to touching the clean diaper. If gloves are used, the dirty gloves shall be removed prior to touching the clean diaper.
- There is a covered trash receptacle close by for soiled diapers and diaper changing materials.

If it is not possible to observe a diaper change, interview the caregiver to determine if they are familiar with the procedure. Educate caregiver on the reasons for the steps in the procedure.

**Update # 11 – Sanitation – p. 40**

■ **470 IAC 3-1.1-47 Sanitation**

Authority: IC 12-13-5-3

Affected: IC 12-17.2

- (c) Direct child care providers shall wash and sanitize all food preparation areas, serving areas, and utensils daily.

◆ Intent:

To protect the children from food borne illness.

○ Assessment Method:

Eating surfaces must be cleaned with a soap solution (detergent and water) and dried with a disposable towel. Eating surfaces must be sanitized with a sanitizing solution that destroys disease-causing organisms. Observe food preparation and clean-up if possible, if not, interview the caregiver to determine the procedures used to wash and sanitize.

**Update # 12 – Applying for licenses – p. 48 & 49**

■ **IC 12-17.2-5-3**

**Applying for licenses**

Sec. 3. (a) An applicant must apply for a child care home license on forms provided by the division.



- (b) An applicant must submit the required information as part of the application.
- (c) An applicant must submit with the application a statement attesting that the applicant has not been:
- (1) convicted of:
    - (A) a felony;
      - (i) related to the health and safety of a child;
      - (ii) that is a sex offense (as defined in IC 11-8-8-5.2);
      - (iii) that is a dangerous felony; or
      - (iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;
    - (B) a misdemeanor relating to the health or safety of children;
    - (C) a misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or
    - (D) a misdemeanor for operating a child care home without a license under section 35 of this chapter, of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; and
  - (2) charged with:
    - (A) a felony;
    - (B) a misdemeanor relating to the health or safety of children;
    - (C) a misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or with a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or
    - (D) a misdemeanor for operating a child care home without a license under section 35 of this chapter or with a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or
- during the pendency of the application.
- (d) An applicant must submit:
- (1) the necessary information, forms, or consents for the division to: and
  - (2) obtain a national criminal history background check on the applicant through the state police department under IC 10-13-3-39.
- (e) An applicant must do the following:
- (1) Conduct a criminal history check of the applicant's:
    - (A) employees;
    - (B) volunteers; and
    - (C) household members who are:
      - (i) at least eighteen (18) years of age; or
      - (ii) less than eighteen (18) years of age but have previously been waived from juvenile court to adult court.
  - (2) Maintain records of each criminal history check.
  - (2) the fingerprints of the applicant and the applicant's spouse; for a national criminal history background check by Federal Bureau of Investigation.
- (e) Subject to section 3.3 of this chapter an applicant shall require:
- (1) an employee or a volunteer of the applicant who has direct contact with a child who is receiving child care from the applicant; and
  - (2) the applicant's household members who are:
    - (A) at least eighteen (18) years of age; or
    - (B) less than eighteen (18) years of age but have previously been waived from juvenile

court to adult court; to submit fingerprints for a national criminal history background check by the Federal Bureau of Investigation. An applicant shall require an individual described in subdivision (1) to apply for a national criminal history background check before the individual is employed or allowed to volunteer and every three (3) years thereafter that the individual is continuously employed or allowed to volunteer.

(f) In addition to the requirements under subsections (d) and (e), an applicant must report to the division any:

(A) police investigations;

(B) arrests; and

(C) criminal convictions;

of which the applicant is aware regarding the applicant, the applicant's spouse, or a person described in subsection (e).

♦ Intent:

To protect children from a caregiver or an adult child care home household member who present risk due to their criminal activity. The statute compels adults who have access to children in a child care home to comply with a **National** criminal history check.

○ Assessment Method:

~~Review the criminal history files maintained by the licensee to determine that the adults have had a state-wide criminal history check completed. Only the licensee is fingerprinted.~~

**Check the online data base of National Criminal History Check results.**

**Update # 13 – Grounds for Denial – p. 51**

Sec. 4. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the department of child services established by IC 31-25-1-1 of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the applicant;

(B) a member of the applicant's household;

(C) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or

(D) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.

(2) A criminal conviction of the applicant, an employee of the applicant who has direct contact on a regular and continuous basis, with children who are under the direct supervision of receiving child care from the applicant, a volunteer of the applicant who has direct contact on a regular and continuous basis, with children who are under the direct supervision of receiving child care from the applicant, or a member of the applicant's household, of any of the following:

(A) A felony:

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, **or a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.**

(D) A misdemeanor for operating a child care home without a license under section 35 of this chapter, **or a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.**

(3) A determination by the division that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the division that the applicant made false statements in the records required by the division.

(5) A determination by the division that the applicant previously operated a:

(A) child care center without a license under IC 12-17.2-4; or

(B) child care home without a license under this chapter.

(b) Notwithstanding subsection (a)(2), if:

(1) a license application is denied due to a criminal conviction of:

(A) an employee or a volunteer of the applicant; or

(B) a member of the applicant's household; and

(2) the division determines that the:

(A) employee or volunteer has been dismissed by the applicant; or

(B) member of the applicant's household is no longer a member of the applicant's household;

the criminal conviction of the former employee, former volunteer, or former member does not require denial of a license application.

♦ Intent:

To protect children from harm by prohibiting licensure of a child care home that includes a caregiver or adult household who have a history that includes substantiated child abuse or neglect, a felony conviction, a misdemeanor related to the health or safety of children, a misdemeanor related to the operation of unlicensed child care facility. The statute allows the division to prohibit licensure of an applicant who falsifies an application or has illegally operated an unlicensed child care program. If an applicant or licensee moves to protect the children by terminating the employment or services of a caregiver or removing a household member with child abuse or neglect history or criminal history, the child care home may continue licensure. This statute provides the division grounds for an enforcement action against a licensee or applicant.

Assessment Method:

For verification of juvenile criminal history checks for student assistants, forms may be obtained from the Bureau of Child Care or the Indiana State Police. The process involves obtaining fingerprints for the juvenile and a parent/guardian's signature on the form.

**Update # 14 – Grounds for Revocation – p. 66 & 67**

Sec. 32. (a) The following constitute sufficient grounds for revocation of a license:

(1) A determination by the department of child services of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the licensee;

(B) a member of the licensee's household;

(C) an employee of the licensee who has direct contact, on a regular and continuous basis, with

children who are under the direct supervision of the licensee; or

(D) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, an employee of the licensee who has direct contact on a regular and continuous basis, with children who are under the direct supervision of receiving child care from the licensee, a volunteer of the licensee who has direct contact on a regular and continuous basis, with children who are under the direct supervision of receiving child care from the licensee, or a member of the licensee's household, of any of the following:

(A) A felony:

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii), and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest.

(B) A misdemeanor related to the health or safety of a child.

(C) A misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, or a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.

(D) A misdemeanor for operating a child care home without a license under section 35 of this chapter, or a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.

(3) A determination by the division that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the division that the licensee made false statements in the records required by the division.

(5) A determination by the division that the licensee previously operated a:

(A) child care center without a license under IC 12-17.2-4; or

(B) child care home without a license under this chapter.

(b) Notwithstanding subsection (a)(2), if:

(1) a license is revoked due to a criminal conviction of:

(A) an employee or a volunteer of the licensee's; or

(B) a resident of the licensee's household; and

(2) the division determines that the:

(A) employee or volunteer has been dismissed by the licensee; or

(B) member of the licensee's household is no longer a member of the licensee's household;

the criminal conviction of the former employee, former volunteer, or former member does not require revocation of a license.

♦ Intent:

This statute establishes the grounds the division may use to revoke a license.

Assessment Method:

For verification of juvenile criminal history checks for student assistants, forms may be obtained from the Bureau of Child Care or the Indiana State Police. The process involves obtaining fingerprints for the juvenile and a parent/guardian's signature on the form.

## **Update # 15 – Volunteer Definition- p. 10**

### **■ 470 IAC 3-1.1-22.5 “Volunteer” defined**

Authority: IC 12-13-5-3

Affected: IC 12-17.2

Sec. 22.5. As used in this rule, “volunteer” means a direct child care provider who is not paid. If the volunteer is counted in the child to staff ratio, he or she must be fourteen (14) years of age or older and must meet the same requirements as paid personnel.

### **♦ Statute Change:**

IC 12-7-2-199.2 defines volunteer as “refers to an individual who, without compensation provides services to a child care home, child care center, provider (as defined in section 149.1(4) of this chapter), or child care ministry for at least eight (8) hours per month.”

## **Update # 16 – Related Definitions – p. 70 and 71 – addition of new page**

### **Related Definitions**

#### **IC 12-7-2-33.7**

##### **Class I child care home**

Sec. 33.7. (a) As used in this chapter, "class I child care home" means a child care home that serves any combination of full-time and part-time children, not to exceed at any one (1) time twelve (12) children plus three (3) children during the school year only who are enrolled in at least full-day kindergarten. Except as provided in IC 12-17.2-5-6.3(b), the addition of three (3) school age children may not occur during a break in the school year that exceeds four (4) weeks.

(b) A child:

(1) for whom a provider of care in the child care home is a parent, stepparent, guardian, custodian, or other relative and who is at least seven (7) years of age; or

(2) who is at least fourteen (14) years of age and does not require child care;  
shall not be counted in determining whether the child care home is within the limit set forth in subsection (a).

*As added by P.L.136-1993, SEC.3. Amended by P.L.106-1996, SEC.1; P.L.247-2001, SEC.5; P.L.124-2007, SEC.2; P.L.197-2011, SEC.38.*

#### **IC 12-7-2-33.8**

##### **Class II child care home**

Sec. 33.8. (a) As used in this chapter, "class II child care home" means a child care home that serves more than twelve (12) children but not more than any combination of sixteen (16) full-time and part-time children at any one (1) time.

(b) A child:

(1) for whom a provider of care in the child care home is a parent, stepparent, guardian, custodian, or other relative and who is at least seven (7) years of age; or

(2) who is at least fourteen (14) years of age and does not require child care;  
shall not be counted in determining whether the child care home is within the limit set forth in subsection (a).

*As added by P.L.136-1993, SEC.4. Amended by P.L.124-2007, SEC.3.*

**IC 12-7-2-53.2 "Dangerous felony"**, for purposes of IC 12-17.2, means one (1) or more of the following felonies:

- (1) Murder (IC 35-42-1-1).
- (2) Attempted murder (IC 35-41-5-1).
- (3) Voluntary manslaughter (IC 35-42-1-3).
- (4) Involuntary manslaughter (IC 35-42-1-4).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Aggravated battery (IC 35-42-2-1.5).
- (7) Kidnapping (IC 35-42-3-2).
- (8) Rape (IC 35-42-4-1).
- (9) Criminal deviate conduct (IC 35-42-4-2).
- (10) Child molesting (IC 35-42-4-3).
- (11) Sexual misconduct with a minor as a Class A felony under IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2).
- (12) Robbery as a Class A or Class B felony (IC 35-42-5-1).
- (13) Burglary as a Class A or Class B felony (IC 35-43-2-1).
- (14) Battery as a felony (IC 35-42-2-1).
- (15) Domestic battery (IC 35-42-2-1.3).
- (16) Strangulation (IC 35-42-2-9).
- (17) Criminal confinement (IC 35-42-3-3).
- (18) Sexual battery (IC 35-42-4-8).
- (19) A felony committed in another jurisdiction that is substantially similar to a felony in this section.
- (20) An attempt to commit or a conspiracy to commit an offense listed in subdivisions (1) through (19).

**IC 12-7-2-162.5 Related**

Sec. 162.5. "Related", for purposes of IC 12-17.2, means any of the following relationships to an individual who is less than eighteen (18) years of age by marriage, blood, or adoption:

- (1) Parent.
- (2) Grandparent.
- (3) Brother.
- (4) Sister.
- (5) Stepparent.
- (6) Stepgrandparent.
- (7) Stepbrother.
- (8) Stepsister.
- (9) First cousin.
- (10) Uncle.
- (11) Aunt.

*As added by P.L.20-1992, SEC.22 and P.L.81-1992, SEC.23. Amended by P.L.1-1993, SEC.92; P.L.145-2006, SEC.60.*

**IC 12-7-2-199.2 Volunteer**

“refers to an individual who, without compensation provides services to a child care home, child care center, provider (as defined in section 149.1(4) of this chapter), or child care ministry for at least eight (8) hours per month.”